

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

CARRIE L. REVARD,

Debtor.

Case No. 99-81084-RGM
(Chapter 7)

In re:

CARRIE L. REVARD,

Plaintiff,

Adv. Proc. 06-1136

v.

WELLS FARGO HOME MORTGAGE,
INC.,

Defendant.

MEMORANDUM OPINION

THIS CASE is before the court on the motion of Wells Fargo Home Mortgage, Inc., DBA America's Servicing Company, to dismiss the case for failure to state a claim upon which relief may be granted. FRBP 7012(b) incorporating FRCP 12(b).

In considering a motion to dismiss, the court must accept as true all well-pled facts in the complaint and all inferences reasonably drawn from them. It may dismiss the case only if the court is satisfied that there are no circumstances upon which the plaintiff could prevail.

The essential allegations are that Wells Fargo violated the discharge stay by intentionally reporting a discharged debt to credit bureaus as past due. The allegations contained in the complaint

are sufficient to raise the inference that Wells Fargo knew that it was not complying with industry standards, that it continued to willfully fail to comply to industry standards and that it knowingly gained an advantage, that is payment of discharged debts. The reasonable inference drawn from the allegations is that the credit reporting activities of Wells Fargo were intended to collect a discharged debt. For the foregoing reasons, the motion will be dismissed.

Alexandria, Virginia
September 22, 2006

/s/ Robert G. Mayer
Robert G. Mayer
United States Bankruptcy Judge

Copy electronically to:

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